THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION NO.953 OF 2006

Dated: 28th April, 2006.

Between:

S. Pandu .. Petitioner

And

1. Andhra Pradesh State Road Transport Corporation, Musheerabad, Hyderabad, rep. by its Vice Chairman And Managing Director and 3 others. … Respondents

THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION NO.953 OF 2006

ORDER :

This writ petition is filed seeking a Mandamus declaring the proceedings of the 2nd respondent – Executive Engineer dated 4-1-2006 as arbitrary and illegal and also to declare the action of the respondents in proceeding with the construction of four shops in Miryalaguda Bus-station without obtaining prior permission from the Municipality as arbitrary and illegal.

The facts, in brief, are as under :

The A.P. State Road Transport Corporation (APSRTC) issued a notification dated 12-10-2001 inviting bids for construction of shops/stalls in the vacant land available in Miryalaguda Bus-station. In response to the same, the petitioner offered his bid for shop No.8. The offer of the petitioner was accepted by the Corporation by letter dated 16-5-2002 and accordingly the petitioner had deposited a sum of Rs.97,000/- towards non-refundable deposit for construction of Shop No.8. Thereafter, a Deed of Licence dated 1-4-2003 was executed in favour of the petitioner granting licence for a period of 20 years commencing from 1-4-2003 to 31-3-2003 on payment of the licence fee at the rate of Rs.3,050/- per month. While so, the third respondent – Regional Manager, Nalgonda Region, Nalgonda issued a fresh tender notification dated 15-3-2005 for construction of four more shops in the Bus-station. The petitioner alleges that the construction of the proposed four shops would render the location of the petitioner' shop disadvantageous and would affect his rights. It is the case of the petitioner that he had chosen Shop No.8 on account of the advantageous position at the corner and the proposed construction of four more shops would be contrary to the spirit and ambit of the agreement in his favour.

Accordingly he filed W.P.No.8068 of 2005 which was disposed of by this Court by order dated 11-4-2005 directing the petitioner to make a representation to the respondent Corporation. That apart, the petitioner filed W.P.No.20805 of 2005 alleging that the Corporation was proceeding to finalise the tenders for the construction of the new shops without getting the plan approved by the competent authority. The said writ petition was disposed of by this court by order dated 17-10-2005 leaving it open to the petitioner to make a representation pointing out his

grievance and on receipt of the same the Corporation shall consider the feasibility of allotting the corner shop that emerges after the proposed construction to the petitioner. Till such decision is taken, the respondents were directed not to allot corner shop of the proposed construction to third parties. It is stated that thereafter the petitioner made a representation requesting the respondent Corporation to allot corner shop in case drive way abutting to his shop was being closed. The Corporation by proceedings dated 4-1-2006 informed the petitioner that he cannot be provided a corner shop as sought by him.

The petitioner contends that as per Section 211 of the A.P. Municipalities Act, 1965 the construction or reconstruction of the building in the absence of the permission from the concerned Municipality is impermissible and therefore notification issued by the Corporation inviting tenders for the proposed construction is contrary to Sections 209 and 211 of the A.P. Municipalities Act. It is also contended that having obtained lay out for construction of 8 shops in the Bus-station, the Corporation cannot deviate from the layout and cannot make any proposal for further construction of four more shops. Hence, this writ petition seeking a declaration that the proceedings of the Corporation dated 4-1-2006 rejecting his claim as arbitrary and illegal and also to declare the action of the respondents in proceeding to construct 4 shops without obtaining prior permission of the Municipality as arbitrary and illegal.

On behalf of the Corporation, a detailed counter-affidavit has been filed stating that by construction of the proposed 4 shops the right of the petitioner has not been infringed in any manner whatsoever. It is also stated that as a matter of fact the allotment of shops was already completed on 12-4-2005 and that the petitioner was never informed that he would be given corner shop forever. Hence, it is always open to the Corporation to use the vacant land in the best way possible. It is also stated that the construction work has been taken up only after obtaining necessary permission from the Municipality and there is no violation of Statutory Rules as alleged by the petitioner.

I have heard the learned Counsel for both the parties.

It is clear from the material on record that the petitioner was granted a licence in respect of the shop No.8 in pursuance of the tender notification dated 12-10-2001 for a period of 20 years on payment of licence fee at the rate of Rs.3,050/- per month. Whereas the petitioner contends that he offered his bid in respect of shop No.8 keeping in view the advantageous position at a corner, the specific case of the respondents is that he was never assured of any advantage. The petitioner did not produce either the agreement in his favour or any other material to establish that no further constructions could be taken up by the Corporation beside the shop of the petitioner. There is also no other material to show that the proposed construction by the Corporation would adversely affect the rights of the petitioner in any manner whatsoever.

In the circumstances, I do find any merit in any of the contentions raised by the petitioner and in the absence of any right much less legal right, the petitioner cannot seek a Mandamus restraining the respondent Corporation from proceeding with the construction in their own land in the Bus-station.

Accordingly, the Writ Petition is dismissed. No costs.

Needless to mention that the interim order granted pending the writ petition shall stand vacated.

_____

G. ROHINI, J.

Dt. 28-4-2006

gbs